DOCUMENT RESUME

ED 115 056 EC 080 636

TITLE	Public Law 94-103: 94th Congress, H.R. 4005, October 4, 1975. An Act to Amend the Developmental Disabilities Services and Facilities Construction Act to Revise and Extend the Programs Authorized by that Act.
INSTITUTION	Congress of the U.S., Washington, D.C. House.; Congress of the U.S., Washington, D.C. Senate.
PUB DATE	Oct 75
NOTE	23p.
EDRS PRICE	MF-$0.76 HC-$1.58 Plus Postage
DESCRIPTORS	*Civil Liberties; Design Needs; Exceptional Child Services; *Facilities; *Federal Aid; *Federal Legislation; Handicapped Children
IDENTIFIERS	*Developmental Disabilities

ABSTRACT

Presented is the 1975 amendment to the Developmental Disabilities Services and Facilities Construction Act. Described are revisions and extensions of the earlier act, including revision of grant and construction assistance for university affiliated facilities, and revision of special projects assistance. The earlier act's designation of rights of persons with developmental disabilities is amended to include right to appropriate treatment, services and habilitation as documented in individual habilitation plans. (CL)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

ED115056

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION
THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

Public Law 94-103
94th Congress, H. R. 4005
October 4, 1975

An Act

To amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Developmentally Disabled Assistance and Bill of Rights Act. 42 USC 6001 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Developmentally Disabled Assistance and Bill of Rights Act".

TITLE I—EXTENSION AND REVISION OF THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

PART A—ONE-YEAR EXTENSION OF EXISTING AUTHORITIES

EXTENSION OF EXISTING AUTHORITIES THROUGH FISCAL YEAR 1975

SEC. 101. (a) Section 122(b) and 131 of the Developmental Disabilities Services and Facilities Construction Act (hereinafter in this Act referred to as the "Act") are each amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, and June 30, 1975". 42 USC 2661a, post, p. 489.

(b) Section 137(b)(1) of the Act is amended by striking out "and June 30, 1974" and inserting in lieu thereof ", June 30, 1974, and June 30, 1975". Post, p. 492.

PART B—REVISION OF ASSISTANCE FOR UNIVERSITY AFFILIATED FACILITIES

UNIVERSITY AFFILIATED FACILITIES

SEC. 105. Part B of the Act is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED FACILITIES

"Subpart 1—Demonstration and Training Grants

"GRANT AUTHORITY

"SEC. 121. (a)(1) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist them in meeting the cost of administering and operating— 42 USC 6031.

"(A) demonstration facilities for the provision of services for persons with developmental disabilities, and

"(B) interdisciplinary training programs for personnel needed to render specialized services for persons with developmental disabilities.

"(2) A university affiliated facility which has received a grant under paragraph (1) may apply to the Secretary for an increase in the amount of its grant under such paragraph to assist it in meeting the cost of conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under paragraph (1), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility and which would provide, in coordination with demonstration facilities and training programs for which a Satellite centers.

EC080636

59-674 (122) O - 75

grant was made under paragraph (1), services for persons with developmental disabilities. If the Secretary approves an application of a university affiliated facility under this paragraph for such a study, the Secretary may for such study increase the amount of the facility's grant under paragraph (1) by an amount not to exceed $25,000. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

"(b) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under subsection (a)(2).

"APPLICATIONS

42 USC 6032. "SEC. 122. (a) No grant may be made under section 121 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the making of the grant applied for will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which funds would (except for such grant) be available to the applicant, but that such grant will be used to supplement, and, to the extent practicable, to increase the level of such funds.

"(b) The Secretary shall give special consideration to applications for grants under section 121(a) for programs which demonstrate an ability and commitment to provide within a community rather than in an institution services for persons with developmental disabilities.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6033. "SEC. 123. (a) For the purpose of making grants under section 121 there are authorized to be appropriated $15,000,000 for fiscal year 1976, $18,000,000 for fiscal year 1977, and $21,000,000 for fiscal year 1978.

"(b)(1) Of the sums appropriated under subsection (a) for fiscal years 1976 and 1977, not less than $5,000,000 shall be made available for grants in each such fiscal year under section 121(a)(1). The remainder of the sums appropriated for such fiscal years shall be made available as follows:

"(A) First, $750,000 shall be made available in each such fiscal year for studies described in section 121(a)(2). The portion of such $750,000 not required for such studies shall be made available for grants under section 121(a)(1).

"(B) Second, any remaining sums shall be made available as the Secretary determines except that at least 40 per centum of such sums shall be made available for grants under section 121(b).

"(2) Of the sums appropriated under subsection (a) for fiscal year 1978, not less than $5,500,000 shall be made available for grants in such

fiscal year under section 121(a)(1). The remainder of the sums appropriated for such fiscal year shall be made available as the Secretary determines except that at least 40 per centum of the remainder shall be made available for grants under section 121(b).

"Subpart 2—Construction

"PROJECTS AUTHORIZED

"SEC. 125. The Secretary may make grants— 42 USC 6041.

"(1) to university-affiliated facilities to assist them in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a grant under section 121(a); and

"(2) to university-affiliated facilities for the construction, renovation, or modernization of buildings to be used as satellite centers.

"APPLICATIONS

"SEC. 126. No grant may be made under section 125 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if it contains or is supported by reasonable assurances that— 42 USC 6042.

"(1) the plans and specifications for the project to be assisted by the grant applied for are in accord with regulations prescribed by the Secretary under section 109;

Post, p. 500.

"(2) title to the site for such project is or will be vested in the applicant or in the case of a grant for a satellite center, in a public or other nonprofit entity which is to operate the center;

"(3) adequate financial support will be available for completion of the construction, renovation, or modernization of the project and for its maintenance and operation when completed; Financial support.

"(4) all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 267c); and Rates of pay. 40 USC 276a note.

"(5) the building which will be constructed, renovated, or modernized with the grant applied for will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4156) (known as the Architectural Barriers Act of 1968). Construction standards.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 127. For the purpose of making payments under grants under section 125, there are authorized to be appropriated $3,000,000 for fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978." 42 USC 6043.

PART C—REVISION OF ALLOTMENT PROGRAM

STATE ALLOTMENTS

SEC. 110. (a) Section 131 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

42 USC 6061. "SEC. 131. For allotments under section 132, there are authorized to be appropriated $40,000,000 for fiscal year 1976, $50,000,000 for fiscal year 1977, and $60,000,000 for fiscal year 1978.

42 USC 6062. (b) Subsection (a) of section 132 of the Act is amended to read as follows:

"(a)(1)(A) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 131 among the States on the basis of— Infra.

"(i) the population,

"(ii) the extent of need for services and facilities for persons with developmental disabilities, and

"(iii) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 42 USC 6063. 134 for the provision under such plans of services and facilities for persons with developmental disabilities.

Exceptions. "(B)(i) Except as provided by clause (ii)—

"(I) the allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands under subparagraph (A) of this paragraph in any fiscal year shall not be less than $50,000; and

"(II) the allotment of each other State in any fiscal year shall not be less than the greater of $150,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending June 30, 1974.

"(ii) If the amount appropriated under section 131 for any fiscal year exceeds $50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State under clause (i) as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to $50,000,000.

"(2) In determining, for purposes of paragraph (1)(A)(ii), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 134(b) Post, p. 490. (5), in the State plan of such State approved under section 134.

"(3) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction (pursuant to section 134(b) Post, p. 490. (15)) for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 134(b)(13), the amount specified pursuant to section 134(b)(15) for such preceding year shall remain available for a second additional year for

the purpose of paying the Federal share of the cost of construction of such facility.

"(4) Of the amount allotted to any State under paragraph (1) for fiscal year 1976, not less than 10 per centum of that allotment shall be used by such State, in accordance with the plan submitted pursuant to section 134(b)(20), for the purpose of assisting it in developing and implementing plans designed to eliminate inappropriate placement in insititutions of persons with developmental disabilities; and of the amount allotted to any State under paragraph (1) for each succeeding fiscal year, not less than 30 per centum of that allotment shall be used by such State for such purpose."

Post, p. 491.

(c) Subsection (d) of section 132 of the Act is amended by inserting after "as he may fix" the following: "(but not earlier than thirty days after he has published notice of his intention to make such reallotment in the Federal Register)".

42 USC 6062.

Publication in Federal Register.

(d) Section 132(e) of the Act is repealed.

Repeal.

(e)(1) Subsection (b) of section 132 of the Act is amended by striking out "this part" each place it occurs and inserting in lieu thereof "the State plan".

(2) Section 134(b)(4) of the Act is amended by striking out "under this part" and inserting in lieu thereof "under section 132".

42 USC 6063.

(3) Section 138 of the Act is amended by striking out "under this part" each place it occurs and inserting in lieu thereof "under section 132".

42 USC 6065.

STATE PLANS

SEC. 111. (a) Subsection (b) of section 134 is amended as follows:

42 USC 6063.

(1) Paragraph (1) of such subsection is amended by striking out "a State planning and advisory council" and inserting in lieu thereof "a State Planning Council as prescribed by section 141".

Post, p. 493.

(2) Paragraph (3) of such subsection is amended by striking out "policies and procedures" and inserting in lieu thereof "priorities, policies, and procedures".

(3) Paragraph (5) of such subsection is amended to read as follows:

"(5) describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to persons with developmental disabilities;".

(4) Paragraph (7) of such subsection is amended to read as follows:

"(7) include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis;".

(5) Paragraph (8) of such subsection is amended to read as follows:

"(8) provide that the State Planning Council be adequately staffed and identify the staff assigned to the Council;".

(6) Paragraph (9) of such subsection is amended by striking out "State planning and advisory council" and inserting in lieu thereof "State Planning Council".

(7) Paragraph (15) of such subsection is amended by striking out "50 per centum" and inserting in lieu thereof "10 per centum".

(8) Paragraph (14) of such subsection is amended by striking out "and assign" and inserting in lieu thereof "assign", and by inserting before the semicolon a comma and the following: "and require that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Act of August 12, 1968 (42 U.S.C. 4151–4156) (known as the Architectural Barriers Act of 1968)".

(9) Such subsection is amended by striking out "and" after the semicolon at the end of paragraph (17), by redesignating paragraph (18) as paragraph (30), and by inserting the following new paragraphs after paragraph (17):

"(18) provide reasonable assurance that adequate financial support will be available to complete the construction of, and to maintain and operate when such construction is completed, any facility, the construction of which is assisted with sums allotted under section 132;

42 USC 6062.

"(19) provide reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with sums allotted under section 132 will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

"(20) contain a plan designed (A) to eliminate inappropriate placement in institutions of persons with developmental disabilities, and (B) to improve the quality of care and the state of surroundings of persons for whom institutional care is appropriate;

"(21) provide for the early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) of developmentally disabled infants and preschool children, particularly those with multiple handicaps;

"(22) provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults;

"(23) support the establishment of community programs as alternatives to institutionalization and support such programs which are designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities;

"(24) contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected;

"(25) provide for a design for implementation which shall include details on the methodology of implementation of the State plan, priorities for spending of funds provided under this part, a detailed plan for the use of such funds, specific objectives to be achieved under the State plan, a listing of the programs and resources to be used to meet such objectives, and a method for periodic evaluation of the design's effectiveness in meeting such objectives;

"(26) provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) and

42 USC 4951 note.

other appropriate voluntary organizations except that volunteer services shall supplement, but shall not be in lieu of, services of paid employees;

"(27) provide for the implementation of an evaluation system in accordance with the system developed under section 110;

"(28) provide, to the maximum extent feasible, an opportunity for prior review and comment by the State Planning Council of all State plans of the State which relate to programs affecting persons with developmental disabilities;

"(29) provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in paragraph (20)(A), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees; and".

(b) Section 134 of the Act is amended by adding after subsection (c) the following new subsection: 42 USC 6063.

"(d)(1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Payments under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1975."

APPROVAL OF CONSTRUCTION PROJECTS

SEC. 112. Sections 135 and 136 of the Act are repealed. Repeal. 42 USC 2675, 2676.

PAYMENTS TO STATES

SEC. 113. Section 137 of the Act is amended as follows: 42 USC 6064.

(1) The heading for such section is amended by inserting "CONSTRUCTION," after "PLANNING,".

(2) Subsection (a) of such section is amended by striking out "(1)" and by striking out paragraph (2).

(3) Subsection (b) is amended to read as follows:

"(b)(1) Upon certification to the Secretary by the State agency, designated pursuant to section 134(b)(1), based upon inspection by it, that work has been performed upon a construction project, or purchases have been made for such project, in accordance with the approved plans and specifications and that payment of an installment is due to the applicant, such installment shall be paid to the State with respect to such project, from the applicable allotment of such State, except that (A) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (B) if the Secretary, after investigation or otherwise, has reason to Ante, p. 490.

Ante, p. 492.

believe that any act (or failure to act) has occurred requiring action pursuant to section 136, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (C) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

"(2) In case the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such revision is approved."

WITHHOLDING OF PAYMENTS

42 USC 6065.

SEC. 114. Section 138 of the Act is amended as follows:

(1) The heading for such section is amended by inserting "CONSTRUCTION," after "PLANNING,".

(2) Such section is amended by striking out "State planning and advisory council" and inserting in lieu thereof "State Planning Council", and by striking out "State council" and inserting in lieu thereof "State Council".

(3) Such section is amended by inserting "(a)" after "138.", by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively, and by adding at the end the following new subsection:

State's plan, review.

"(b) The State Planning Council of a State shall review the State's plan (including the design for implementation of such plan) under section 134 and the actions of the State under such plan for the purpose of determining if the State is complying with the requirements of the plan (and its design for implementation). For the purpose of assisting the Secretary in the implementation of this section, a State Planning Council may notify the Secretary of the results of any review carried out under this subsection."

42 USC 6063.

NONDUPLICATION

SEC. 115. Section 140 of the Act is amended to read as follows:

"NONDUPLICATION

42 USC 6066.

"SEC. 140. In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 134, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 132, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds."

42 USC 6063.

42 USC 6062.

STATE PLANNING COUNCILS

SEC. 116. Part C of the Act is amended by inserting after section 140 the following new section:

"STATE PLANNING COUNCILS

Establishment.
42 USC 6067.

"SEC. 141. (a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the

Governor of such State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. At least one-third of the membership of such a Council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers of any entity, or employees of any State agency or of any other entity, which receives funds or provides services under this part. Membership.

"(b) The State Planning Council shall— Duties.

"(1) supervise the development of and approve the State plan required by this part;

"(2) monitor and evaluate the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities, and

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request.

"(c) Each State receiving assistance under this part shall provide for the assignment to its State Planning Council of personnel adequate to insure that the Council has the capacity to fulfill its responsibilities under subsection (b)."

SEC. 117. Part C of the Act is amended by inserting after section 141 (added by section 116 of this Act) the following new section:

"JUDICIAL REVIEW

"SEC. 142. If any State is dissatisfied with the Secretary's action under section 134(c) or section 136, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action." 42 USC 6068. 42 USC 6063; ante, p. 492.

PART D—REVISION OF SPECIAL PROJECTS ASSISTANCE

SPECIAL PROJECT GRANTS

SEC. 120. Part D of the Act is amended to read as follows:

"PART D—SPECIAL PROJECT GRANTS

"GRANT AUTHORITY

42 USC 6081.

"SEC. 145. (a) The Secretary, after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled, may make project grants to public or nonprofit private entities for—

"(1) demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

"(2) public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

"(3) coordinating and using all available community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

"(4) demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

"(5) technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

"(6) training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

"(7) developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

"(8) gathering and disseminating information relating to developmental disabilities; and

"(9) improving the quality of services provided in and the administration of programs for such persons.

Application.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless the State in which the applicant's project will be conducted has a State plan approved under part C. The Secretary shall provide to the State Planning Council for the State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments thereon.

Ante, p. 489.

(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary. In determining the amount of any grant under subsection (a) for the costs of any project, there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(d) For the purpose of making payments under grants under subsection (a), there are authorized to be appropriated $18,000,000 for fiscal year 1976, $22,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978. Appropriation authorization.

"(e) Of the funds appropriated under subsection (d) for any fiscal year, not less than 25 per centum of such funds shall be used for projects which the Secretary determines (after consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled) are of national significance.

"(f) No funds appropriated under the Public Health Service Act, under this Act (other than under subsection (d) of this section), or under section 304 of the Rehabilitation Act of 1973 may be used to make grants under subsection (a)." Use of funds, restriction. 29 USC 774.

PART E—REVISION OF GENERAL PROVISIONS

GENERAL PROVISIONS

SEC. 125. Part A of the Act is amended to read as follows:

"PART A—GENERAL PROVISIONS

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Developmental Disabilities Services and Facilities Construction Act'. Developmental Disabilities Services and Facilities Construction Act. 42 USC 6001 note.

"DEFINITIONS

"SEC. 102. For purposes of this title: 42 USC 6001.

"(1) The term 'State' includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

"(2) The term 'facility for persons with developmental disabilities' means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities.

"(3) The terms 'nonprofit facility for persons with developmental disabilities' and 'nonprofit private institution of higher learning' mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term 'nonprofit private agency or organization' means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

"(4) The term 'construction' includes construction of new buildings, acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

"(5) The term 'cost of construction' means the amount found by the Secretary to be necessary for the construction of a project.

"(6) The term 'title', when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

"(7) The term 'developmental disability' means a disability of a person which—

"(A)(i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

"(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

"(iii) is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

"(B) originates before such person attains age eighteen;

"(C) has continued or can be expected to continue indefinitely; and

"(D) constitutes a substantial handicap to such person's ability to function normally in society.

"(8) The term 'services for persons with developmental disabilities' means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability; and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training, education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

"(9) The term 'satellite center' means an entity which is associated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facilities in the delivery of training, services, and programs to the developmentally disabled and their families, to personnel of State agencies concerned with developmental disabilities, and to others responsible for the care of persons with developmental disabilities.

"(10) The term 'university affiliated facility' means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which aids in demonstrating the provision of specialized services for the diagnosis and treatment of persons with developmental disabilities and which provides education and training

(including interdisciplinary training) of personnel needed to render services to persons with developmental disabilities.

"(11) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"FEDERAL SHARE

"SEC. 103.(a) The Federal share of any project to be provided through grants under part B and allotments under part C may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined. 42 USC 6002. Ante, pp. 486, 489.

"(b) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind. Non-Federal share.

"(c) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part C or by a university-affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part B.

"STATE CONTROL OF OPERATIONS

"SEC. 104. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title. 42 USC 6003.

"RECORDS AND AUDIT

"SEC. 105. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit. 42 USC 6004.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 106. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (1) by 42 USC 6005. 29 USC 701 note.

State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"RECOVERY

42 USC 6006. Ante, pp. 486, 489.

"SEC. 107. If any facility with respect to which funds have been paid under part B or C shall, at any time within twenty years after the completion of construction—

"(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

"(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by him, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities."

NATIONAL ADVISORY COUNCIL

42 USC 6007.

SEC. 126. (a) Section 133 of the Act is transferred to part A of the Act (as amended by section 125), is redesignated as section 108, and is amended as follows:

(1) Subsection (a) of such section is amended to read as follows:

National Advisory Council on Services and Facilities for the Developmentally Disabled. Establishment. Membership.

"(a)(1) There is established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter in this section referred to as the 'Council') which shall consist of nine ex officio members and sixteen members appointed by the Secretary. The ex officio members of the Council are the Deputy Commissioner of the Bureau of Education for the Handicapped, the Commissioner of Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Disease and Stroke, the Director of the National Institute of Mental Health, and three other representatives of the Department of Health, Education, and Welfare selected by the Secretary. The appointed members of the Council shall be selected from persons who are not full-time employees of the United States and shall be selected without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall be selected from advocates in the field of services to persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons. At least five such members shall be representatives of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and

5 USC 101 et seq.

at least five other such members shall be persons with developmental disabilities or the parents or guardians of such persons.

"(2) The Secretary shall from time to time designate one of the appointed members to serve as Chairman of the Council.

"(3) The Council shall meet at least twice a year.

"(4) The Federal Advisory Committee Act shall not apply with respect to the duration of the Council." 5 USC app. I.

(2) Subsection (b) of such section is amended— 42 USC 6007.

(A) by inserting "appointed" after "Each", and

(B) by striking out ", and except that" and all that follows in that subsection and inserting in lieu thereof a period and the following: "An individual who has served as a member of the Council may not be reappointed to the Council before two years has expired since the expiration of his last term of office as a member."

(3) Subsection (c) of such section is amended to read as follows:

"(c) It shall be the duty and function of the Council to— Duties.

"(1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by the Secretary in the implementation of the provisions of this title;

"(2) study and evaluate programs authorized by this title to determine their effectiveness in carrying out the purposes for which they were established;

"(3) monitor the development and execution of this title and report directly to the Secretary any delay in the rapid execution of this title;

"(4) review grants made under this title and advise the Secretary with respect thereto; and

"(5) submit to the Congress annually an evaluation of the efficiency of the administration of the provisions of this title."

(4) Subsection (e) of such section is amended (A) by striking out "Members" and inserting in lieu thereof "Appointed members", and (B) by striking out "they" and inserting in lieu thereof "all of the members".

(b) The amendments made by subsection (a) do not affect the term of office of persons who on the date of the enactment of this Act are members of the National Advisory Council on Services and Facilities for the Developmentally Disabled. The Secretary of Health, Education, and Welfare shall make appointments to such Council in accordance with section 108 of the Act as vacancies occur in the membership of such Council on and after the date of the enactment of this Act. The ex officio members prescribed by section 108 of the Act shall take office as of the date of the enactment of this Act. 42 USC 6007 note.

REGULATIONS

SEC. 127. Section 139 of the Act is transferred to part A of the Act (as amended by sections 125 and 126), is redesignated as section 109, and is amended as follows: 42 USC 6008.

(1) Paragraphs (a), (b), and (c) are each amended by striking out "this part" and inserting in lieu thereof "part C".

(2) Paragraphs (a), (b), (c), and (d) are redesignated as paragraphs (1), (2), (3), and (4), respectively.

(3) The last sentence is repealed and the following new sentences are inserted in lieu thereof: "Regulations of the Secretary shall provide for approval of an application submitted by a State for a project to be completed by two or more political subdivisions, by two or more public or nonprofit private entities, or by any

combination of such subdivisions and entities. Within one hundred and eighty days of the date of the enactment of any amendments to this title, the Secretary shall promulgate such regulations as may be required for implementation of such amendments."

EVALUATION

SEC. 128. Part A of the Act (as amended by sections 125, 126, and 127) is amended by adding after section 109 the following new section:

"EVALUATION SYSTEM

42 USC 6009.

"SEC. 110. (a) The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall within two years of the date of the enactment of the Developmentally Disabled Assistance and Bill of Rights Act develop a comprehensive system for the evaluation of services provided to persons with developmental disabilities through programs (including residential and nonresidential programs) assisted under this title. Within six months after the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State submit to the Secretary, in such form and manner as he shall prescribe, a time-phased plan for the implementation of such a system. Within two years after the date of the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State provide assurances satisfactory to the Secretary that the State is using such a system.

Time-phased plan.

"(b) The evaluation system to be developed under subsection (a) shall—

"(1) provide objective measures of the developmental progress of persons with developmental disabilities using data obtained from individualized habilitation plans as required under section 112 or other comparable individual data;

Post, p. 503.

"(2) provide a method of evaluating programs providing services for persons with developmental disabilities which method uses the measures referred to in paragraph (1); and

"(3) provide effective measures to protect the confidentiality of records of, and information describing, persons with developmental disabilities.

Report to Congress.

"(c) Not later than two years after the date of the Developmentally Disabled Assistance and Bill of Rights Act, the Secretary shall submit to the Congress a report on the evaluation system developed pursuant to subsection (a). Such report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.

Grants and contracts.

"(d) The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may make grants to public and private nonprofit entities and may enter into contracts with individuals and public and nonprofit private entities to assist in developing the evaluation to be developed under subsection (a), except that such a grant or contract may not be entered into with entities or individuals who have any financial or other direct interest in any of the programs to be evaluated under such a system. Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5)."

Exception.

TITLE II—ESTABLISHMENT AND PROTECTION OF THE RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES

RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 201. Part A of the Act (as amended by title I) is amended by inserting after section 110 the following new section:

"RIGHTS OF THE DEVELOPMENTALLY DISABLED

"SEC. 111. Congress makes the following findings respecting the rights of persons with developmental disabilities: 42 USC 6010.

"(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

"(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

"(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

"(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

"(B) does not meet the following minimum standards:

"(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

"(ii) Provision to such persons of appropriate and sufficient medical and dental services.

"(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

"(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

"(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

"(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

"(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

"(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

"(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is

appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

"(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs."

HABILITATION PLANS

SEC. 202. Part A of the Act is amended by inserting after section 111 (added by section 201) the following new section:

"HABILITATION PLANS

42 USC 6011.
Ante, p. 489.

"SEC. 112. (a) The Secretary shall require as a condition to a State's receiving an allotment under part C after September 30, 1976, that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under such part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

Annual review.

Requirements.

"(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

"(1) The plan shall be in writing.

"(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (c) where appropriate, such person's parents or guardian or other representative.

"(3) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

"(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

"(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

"(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision."

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 203. Part A of the Act is amended by inserting after section 112 (added by section 202) the following new section:

"PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 113. (a) The Secretary shall require as a condition to a State receiving an allotment under part C for a fiscal year ending before October 1, 1977, that the State provide the Secretary satisfactory assurances that not later than such date (1) the State will have in effect a system to protect and advocate the rights of persons with development disabilities, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (B) be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary may not make an allotment under part C to a State for a fiscal year beginning after September 30, 1977, unless the State has in effect a system described in the preceding sentence. 42 USC 6012. Ante, p. 489.

"(b)(1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with subsections (a)(1)(A) and (d) of section 132. State allotments. 42 USC 6062.

"(2) For allotments under paragraph (1), there are authorized to be appropriated $3,000,000 for fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978." Appropriation authorization.

STUDIES AND RECOMMENDATIONS

SEC. 204. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct or arrange for the conduct of the following: 42 USC 6010 note.

(1) A review and evaluation of the standards and quality assurance mechanisms applicable to residential facilities and community agencies under the Rehabilitation Act of 1973, titles I and VI of the Elementary and Secondary Education Act of 1965, titles XVIII, XIX, and XX of the Social Security Act, and any other Federal law administered by the Secretary. Such standards and mechanisms shall be reviewed and evaluated (A) for their effectiveness in assuring the rights, described in section 111 of the Act, of persons with developmental disabilities, (B) for their effectiveness in insuring that services rendered by such facilities and agencies to persons with developmental disabilities are consistent with current concepts of quality care concerning treatment, services, and habilitation of such persons, (C) for conflicting requirements, and (D) for the relative effectiveness of their enforcement and the degree and extent of their effectiveness. Review and evaluation. 29 USC 701 note. 20 USC 331 note, 871. 42 USC 1395, 1396, 1397. Ante, p. 502.

(2) The development of recommendations for standards and quality assurance mechanisms (including enforcement mechanisms) for residential facilities and community agencies providing treatment, services, or habilitation for persons with developmental disabilities which standards and mechanisms will assure the rights stated in section 111 of the Act. Such recommendations shall be based upon performance criteria for measuring and evaluating the developmental progress of persons with developmental disabilities which criteria are consistent with criteria used in the evaluation system developed under section 110 of the Act.

Ante, p. 502.

Ante, p. 501.

(3) The development of recommendations for changes in Federal law and regulations administered by the Secretary after taking into account the review and evaluation under paragraph (1) and the recommended standards or mechanisms developed under paragraph (2).

(b)(1) The Secretary may in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, obtain (through grants or contracts) the assistance of public and private entities in carrying out subsection (a).

(2) In carrying out subsection (a), the Secretary shall consult with appropriate public and private entities and individuals for the purpose of receiving their expert assistance, advice, and recommendations. Such agencies and individuals shall include persons with developmental disabilities, representative of such individuals, the appropriate councils of the Joint Commission on Accreditation of Hospitals, providers of health care, and State agencies. Persons to be consulted shall include the following officers of the Department of Health, Education, and Welfare: The Commissioner of the Medical Services Administration, the Commissioner of the Rehabilitation Services Administration, the Deputy Commissioner of the Bureau of Education for the Handicapped, the Assistant Secretary for Human Development, the Commissioner of the Community Services Administration, and the Commissioner of the Social Security Administration.

Report to congressional committees.

(c) The Secretary shall within eighteen months after the date of enactment of this Act complete the review and evaluation and development of recommendations prescribed by subsection (a) and shall make a report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on such review and evaluation and recommendations.

TITLE III—MISCELLANEOUS

REPORT AND STUDY

42 USC 6001 note.

SEC. 301. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall, in accordance with section 101(7) of the Act (defining the term "developmental disability") (as amended by title I of this Act), determine the conditions of persons which should be included as developmental

Ante, p. 496.

disabilities for purposes of the programs authorized by title I of the Act. Within six months of the date of enactment of this Act the Secretary shall make such determination and shall make a report thereon to the Congress specifying the conditions which he determined should be so included, the conditions which he determined should not be so included, and the reasons for each such determination. After making such report, the Secretary shall periodically, but not less often than annually, review the conditions not so included as developmental disabilities to determine if they should be so included. The Secretary shall report to the Congress the results of each such review.

Ante, p. 496.
Report to Congress.
Report to Congress.

(b)(1) The Secretary shall contract for the conduct of an independent objective study to determine (A) if the basis of the definition of the developmental disabilities (as amended by title I of this Act) with respect to which assistance is authorized under such title is appropriate and, to the extent that it is not, to determine an appropriate basis for determining which disabilities should be included and which disabilities should be excluded from the definition, and (B) the nature and adequacy of services provided under other Federal programs for persons with disabilities not included in such definition.

Study.

(2) A final report giving the results of the study required by paragraph (1) and providing specifications for the definition of developmental disabilities for purposes of title I of the Act shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate not later than eighteen months after the date of enactment of this Act.

Report to congressional committees.

CONFORMING AMENDMENTS

SEC. 502. (a) Sections 134, 137, 138, 140, 141, and 142 of the Act are redesignated as sections 133, 134, 135, 136, 137, and 138, respectively. 42 USC 6063-6068.

(b)(1) Section 132 of the Act is amended by striking out "134" each place it occurs and inserting in lieu thereof "133". 42 USC 6062.

(2) Section 133(b)(1) is amended by striking out "141" and inserting in lieu thereof "137". 42 USC 6063.

(3) Section 135 of the Act (as so redesignated) is amended (A) by striking out "134" each place it occurs and inserting in lieu thereof "133", and (B) by striking out "136" in subsection (b) and inserting in lieu thereof "135". 42 USC 6065.

(4) Section 136 of the Act (as so redesignated) is amended by striking out "134" each place it occurs and inserting in lieu thereof "133". 42 USC 6066.

(5) Section 138 of the Act (as so redesignated) is amended (A) by striking out "134" and inserting in lieu thereof "133", and (B) by striking out "136" and inserting in lieu thereof "135". 42 USC 6068.

Repeal.

42 USC 2661 note, 2670, 2691, 2693-2697b.

(c) Sections 100 and 130 of the Act and title IV of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 are repealed.

EFFECTIVE DATE

42 USC 6001 note.

SEC. 303. The amendments made by this Act shall take effect with respect to appropriations under the Act for fiscal years beginning after June 30, 1975.

Approved October 4, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-58 (Comm. on Interstate and Foreign Commerce) and No. 94-473 (Comm. of Conference).
SENATE REPORT No. 94-160 accompanying S. 462 (Comm. on Labor and Public Welfare).
CONGRESSIONAL RECORD, Vol. 121 (1975):
Apr. 10, considered and passed House.
June 2, considered and passed Senate, amended, in lieu of S. 462.
Sept. 18, House agreed to conference report.
Sept. 23, Senate agreed to conference report.

89 STAT. 507